

EDNA L. WILLIAMS

IBLA 81-521

Decided October 27, 1981

Appeal from decision of the Arizona State Office, Bureau of Land Management, dismissing protest with respect to oil and gas lease A-3631.

Affirmed.

1. Oil and Gas Leases: Applications: Filing -- Oil and Gas Leases: Lands  
Subject to

Pursuant to 43 CFR 3112.1-1, all lands which are not within a known geologic structure of a producing oil and gas field and are covered by canceled or relinquished leases, leases which terminated for nonpayment of rental or leases which expired by operation of law at the end of their primary or extended terms, are subject to leasing only in accordance with the simultaneous filing system.

APPEARANCES: Edna L. Williams, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Edna L. Williams appeals from a decision dated February 27, 1981, by the Arizona State Office, Bureau of Land Management (BLM), dismissing her protest against reoffering for simultaneous oil and gas leasing lands in secs. 4 and 9, T. 33 N., R. 15 W., Gila and Salt River meridian, Mohave County, Arizona.

Appellant was the owner of an equal undivided interest in lease A-3631 embracing the above lands, among others. On September 20, 1971, appellant and the co-owner filed a relinquishment of all lands in the lease except secs. 4 and 9. On August 9, 1979, appellant and her co-owner relinquished the remaining lands in the lease.

BLM dismissed the protest on the basis of 43 CFR 3112 which requires that lands in relinquished leases are subject to leasing only in accordance with the simultaneous filing procedures.

Appellant concedes in her appeal that the lease was relinquished. She explains that,

[t]he purpose for the relinquishment was to have the lease placed on the September simultaneous list for drawing, with the possibility that parties who were aware of the October expiration date would be prepared at that time to place their applications for the drawing rather than at the earlier date of September. [Emphasis in original.]

Appellant, apparently doubtful of her chances to reobtain a lease for the lands through a drawing, suggests that the above regulation might be waived. Appellant further requests that the BLM decision be reversed and remanded with an order for allowance of reasonable time for proper consideration of her request for a private bill by her Congressman before the subject lease (A-3631) is placed on any simultaneous drawing list.

[1] The regulation in question, 43 CFR 3112.1-1, provides:

§ 3112.1-1 Availability of lands.

All lands which are not within a known geological structure of a producing oil or gas field and are covered by canceled or relinquished leases, leases which automatically terminate for non-payment of rental pursuant to 30 U.S.C. 188, or leases which expire by operation of law at the end of their primary or extended terms are subject to leasing only in accordance with this subpart. Other lands which are not within a known geological structure of a producing oil or gas field may be leased in accordance with this subpart. [Emphasis added.]

The language of the regulation is clear. Under 43 CFR 3112.1-1, lands which are not within the known geologic structure of a producing oil and gas field and are covered by relinquished, terminated, or expired leases are subject to further leasing only under the simultaneous system. John W. Foderick, 53 IBLA 258 (1981). The regulation contains no provision for waiver. A duly promulgated regulation has the force and effect of law and is binding on the Secretary. Geosearch, Inc., 50 IBLA 347 (1980). BLM properly dismissed appellant's protest.

As to appellant's request for a delay while a private bill is processed through Congress so that she may regain her lease, we note the following: On October 7, 1981, this Board received from appellant a copy of a letter to her from Congressman Vic Fazio stating:

I regret to inform you that after a careful review of the material and documentation that you have provided, including the letters from the Department of Interior, I

do not feel that private legislation would be successful in this case. Because Congress has given the administrative authority in these cases to the Department of Interior, and because the Department's administrative process with regard to leasing land and relinquishing a lease is fairly straightforward and available for the public's information, it would be inappropriate and bad precedent to attempt to overrule the Department through private legislation. Further, it is clear that such legislation would not be favorably reported from the House Committee on the Interior for these reasons.

I regret that I am unable to assist you in this matter, and sincerely hope that you are able to re-lease the land through the Department of the Interior's simultaneous drawing procedure.

As appellant has no apparent prospects for having a private bill processed, we deny her request for a delay.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis  
Administrative Judge

We concur:

Bruce R. Harris  
Administrative Judge

C. Randall Grant, Jr.  
Administrative Judge

